

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 5:04-00155

MANUEL L. PAGE

O R D E R

In Bluefield, on December 15, 2010, came the defendant, Manuel L. Page, in person and by counsel, Christian M. Capece, Assistant Federal Public Defender; came the United States by Monica K. Schwartz, Assistant United States Attorney; and came United States Probation Officer Amy Berry-Richmond, for a hearing on the petition to revoke the defendant's term of supervised release.

The court informed the defendant of the alleged violations contained in the petition to revoke defendant's term of supervised release, filed on November 23, 2010. The court advised the defendant that, pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, he has the right to a hearing and assistance of counsel before the terms of his supervised release could be revoked. Whereupon the defendant stipulated that the government would be able to prove the charges contained in the petition by a preponderance of the evidence. Based upon defendant's stipulation and other matters contained in the record, the court found the charges were established by a preponderance of the evidence.

The court found that the Guideline imprisonment range for the revocation of supervised release upon such grounds was seven to thirteen months. The court further found that the Guideline ranges issued by the Sentencing Commission with respect to revocation of probation and supervised release are policy statements only and are not binding on the court. Thus, the court stated that the relevant statutory provision is 18 U.S.C. § 3583, which provides a maximum term of imprisonment of two years. Neither party objected to the Guideline range and statutory penalty as determined by the court.

The court found that there was sufficient information before the court on which to sentence defendant without updating the presentence investigation report.

After giving counsel for both parties and defendant an opportunity to speak regarding the matter of disposition, the court **ORDERED** the defendant's term of supervised release revoked and he is to be incarcerated for a term of sixty (60) days followed by six (6) months at Transitions, Inc., Ashland, Kentucky. While at Transitions, defendant is to receive counseling and treatment for mental health and substance abuse issues. In addition, while at Transitions, defendant will adhere to all rules and regulations of that facility. Defendant is to remain in custody until space is available for him at Transitions. Upon release from imprisonment, defendant will

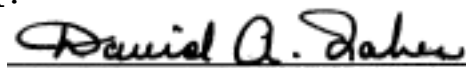
serve a term of supervised release of twenty-four (24) months. While on supervised release, defendant shall not commit another federal, state or local crime, and shall be subject to the Standard Conditions of Supervision adopted by the Southern District of West Virginia by its most recent standing order. All previously imposed conditions of supervision remain in effect. The court also ordered defendant to pay the unpaid portion of the previously-imposed fine and special assessment.

The defendant was informed of his right to appeal the revocation of his supervised release. The defendant was further informed that in order to initiate such an appeal, a Notice of Appeal must be filed in this court within fourteen (14) days. The defendant was advised that if he wishes to appeal and cannot afford to hire counsel to represent him on appeal, the court will appoint counsel for him. The defendant was further advised that if he so requests, the Clerk of court will prepare and file a notice of appeal on his behalf.

The Clerk is directed to forward a copy of this Order to counsel of record, the United States Marshal for the Southern District of West Virginia, and the Probation Department of this court.

IT IS SO ORDERED this 20th day of December, 2010.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge